

## REMARKS

Claims 1, 5-14, 16, and 18-40 are pending in this application. Claims 1, 14, 27, and 35 are independent. In light of the remarks included herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1, 5-14, 16, 18-34 and 39-40 under 35 U.S.C. §112, first paragraph; rejected claims 35-38 under 35 U.S.C. §103(a) as being unpatentable over *Lapstun et al.* (USP 6,789,191) in view of *Dorenbos* (USP 5,751,813) and further in view of *Borgstrom* (USP 6,738,053); rejected claims 1, 5-6, 14, 18-19, 22, 27-30, 32-38 and 40 under 35 U.S.C. §103(a) as being unpatentable over *Lapstun et al.* in view of *Dorenbos* and *Borgstrom* and further in view of *Searle* (USP 6,683,954); and rejected claims 7-13, 20-21, 23-26, 31 and 39 under 35 U.S.C. §103(a) as being unpatentable over *Lapstun et al.* in view of *Dorenbos*, *Borgstrom*, and *Searle* and further in view of *Schneier*. Applicant respectfully traverses these rejections.

## Examiner Interview

Applicant wishes to thank the Examiner for the Interview conducted on April 2, 2007. During the Interview, Applicant argued that none of the cited references teach or suggest “sending said at least one absolute position recorded from the secure note to a database device, in which said at least one absolute position is associated with an address of the receiving device and an encryption key of the receiving device;” as recited in the claims. The Examiner indicated that she will read the references to consider Applicant’s argument and, if the Examiner maintains her position, she will more fully explain her rejection and her interpretation of the cited references, especially with regard to this claim element.

**Claim Rejections – 35 U.S.C. §112, First Paragraph**

The Examiner rejected claims 1, 5-14, 16, 18-34 and 39-40 under 35 U.S.C. §112, first paragraph asserting the written description does not describe “the association of the at least one absolute position associated with the key.” Applicant respectfully disagrees with the Examiner’s assertions.

The Examiner’s attention is directed to page 21, lines 20-26 which clearly describes the elements recited in the claim. As such, it is respectfully requested that the outstanding rejection be withdrawn.

**Claim Rejections – 35 U.S.C. §103(a)-*Lapstun et al./Dorenbos/Borgstrom/Searle***

In support of the Examiner’s rejection of claim 1, the Examiner admits that *Lapstun et al.* fails to disclose “sending said at least one absolute position recorded from the secure note to a database device, in which said at least one absolute position is associated with an address of the receiving device and an encryption key of the receiving device.” The Examiner relies on the teachings of *Searle* to cure the deficiencies of the teachings of *Lapstun et al.* Applicant respectfully disagrees with the Examiner’s characterization of these references.

The invention of claim 1 recites, *inter alia*, sending said at least one absolute position recorded from the secure note to a database device, in which said at least one absolute position is associated with an address of the receiving device and an encryption key of the receiving device; and receiving, in the digital pen, said address and said encryption key of said receiving device, from the database device.

In support of the Examiner's rejection of claim 1, the Examiner asserts in the final Official Action mailed January 5, 2007, on page 8 as follows:

Neither *Lapstun*, *Borgstrom*, and *Dorenbos* disclose at least one absolute position recorded from the secure note is associated with an encryption key of the receiving device.

*Searle* discloses encryption of a key using another key that is unique and particular to a given client (abstract). Thus *Searle* discloses at least one absolute position recorded from the secure note (column 8 lines 5-17) is associated with an encryption key of the receiving device (column 4 lines 49-58). The key is associated with the PDA which corresponds to the secure note in the form of the screen that is used to enter the data. The whole screen is associated with the unique key therefore at least one absolute position is associated with the key.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have a key associated with the secure note (PDA) as in *Searle* as in *Searle* in the system of *Lapstun*. One of ordinary skill in the art would have been motivated to do this because the key may then be used to identify the PDA (*Searle* column 5 lines 8-27).

Applicant respectfully disagrees with the Examiner's assertions.

In order to sustain a rejection under 35 U.S.C. § 103(a), it is respectfully submitted that the Examiner must meet his burden to establish a *prima facie* case. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

**1. *Searle* fails to teach or suggest at least one absolute position recorded from a secure note.**

The Examiner asserts that *Searle* discloses at least one absolute position recorded from a secure note citing to col. 8, lines 5-17. Applicant respectfully disagrees with the Examiner.

*Searle* discloses at col. 8, lines 5-17 as follows:

In this section of the detailed description, a representative computer or other such device in conjunction with which embodiments of the invention may be practiced, and one or more of which can act as a client or a server as referred to in the previous sections of the detailed description, is described. However, the invention is not limited to the representative computer or other such device described herein. The phrase "other such device" is used to reflect the fact that devices other than computers can be used in accordance with embodiments of the invention--for example, PDA devices and MP3 devices, although the invention is not limited to an other such device particularly recited herein.

There is no reasonable interpretation of the citation set forth above that teaches or suggests at least one absolute position recorded from a secure note. Should the Examiner maintain her rejection of this claim element, Applicant respectfully requests the Examiner clearly identify what teachings she is relying upon to support her rejection so that Applicant may have a proper opportunity to respond.

**2. *Searle* fails to teach or suggest at least one absolute position associated with an encryption key of the receiving device.**

The Examiner asserts that *Searle* discloses at least one absolute position associated with an encryption key of the receiving device, citing to col. 4, lines 49-58. Applicant respectfully disagrees with the Examiner.

*Searle* discloses at col. 4, lines 49-58 as follows:

FIG. 1 is a diagram showing an encryption 100 situation, a successful decryption 102 situation, and an unsuccessful decryption 104 situation, according to an embodiment of the invention. In the encryption 100, a component 106 of computer one is used to determine a first key 108. The first key 108 is unique and particular to computer one. The component 106 has an identifier such that it can be used to particularly and uniquely

identify computer one. That is, the identifier of the component 106 is used as the first key 108, such that the first key 108 is unique and particular to computer one.

There is no reasonable interpretation of the citation set forth above that teaches or suggests an absolute position being associated with an encryption key. *Searle* merely teaches using an encryption key.

In addition, the Examiner asserts that the whole screen is associated with the unique key, and therefore at least one absolute position is associated with the key. These assertions are wholly unsupported by the teachings of *Searle*. There is no teaching or suggestion in *Searle* that indicates that there is any association between the screen of the PDA and the encryption key.

Further, the Examiner asserts that the PDA is the secure note and that the encryption key is associated with the PDA and identifies the PDA, i.e. the secure note. Thus, *Searle* cannot teach or suggest that at least one absolute position is associated with an encryption key of the receiving device, because clearly the secure note and the receiving device cannot be one and the same device.

**3. The Examiner's combination of the cited references fail to teach or suggest all of the claim elements.**

Claim 1 recites, *inter alia*, obtaining, in the digital pen, at least one absolute position recorded from an absolute position coding pattern on a secure note; sending said at least one absolute position recorded from the secure note to a database device, in which said at least one absolute position is associated with an address of the receiving device and an encryption key of the receiving device; and receiving, in the digital pen, said address and said encryption key of said receiving device, from the database device.

The Examiner asserts in support of her rejection that *Searle* discloses encryption of a key using another key that is unique and particular to another client; at least one absolute position recorded from a secure not being associated with an encryption key of he receiving device wherein the secure note is the screen of the PDA and the whole screen is associated with the unique key. Even assuming, *arguendo*, the Examiner's interpretation of the cited reference was accurate, which Applicant wholly disagrees, the combination purported by the Examiner would

still fail to teach or suggest obtaining the absolute positions in the **pen**, sending the at least one position to a **database device**, in which the at least one absolute position is associated with an encryption key of the **receiving device**.

According to the Examiner, *Searle* discloses only one device, the PDA, that includes the purported secure note, the purported absolute position, the purported stored association and the purported encryption key. In other words, based on the Examiner's interpretation of *Searle*, the absolute position of the PDA screen (secure note) is associated with the encryption key of the same PDA, **not a separate receiving device**.

However, claim 1 clearly recites obtaining in the digital pen at least one absolute position recorded from an absolute position coding pattern on a secure note and sending the at least one absolute position recorded from the secure to a database device, in which the at least one absolute position is associated with an encryption key of the receiving device. Even if the purported modifications were made to the system of *Lapstun et al.*, the resultant device would still fail to cure the deficiencies of the teachings of *Lapstun et al.* as the combination of the cited references would still fail to teach or suggest a database device, in which the **at least one absolute position is associated with an encryption key of the receiving device**. As such, Applicant submits that the Examiner has failed to establish *prima facie* obviousness by failing to teach or suggest all of the claim elements. Claim 1 is clearly patentable over the references as cited by the Examiner.

Should the Examiner maintain her rejection of this claim element, Applicant respectfully requests the Examiner clearly identify what teachings she is relying upon to support her rejection so that Applicant may have a proper opportunity to respond.

#### **Claim Rejections – 35 U.S.C. §103(a)-*Lapstun et al./Dorenbos/Borgstrom***

It is respectfully submitted that the Examiner has failed to properly consider the elements recited in claim 35. In support of the Examiner's rejection of claim 35, the Examiner recites at least some of the elements of claim 1. However, the Examiner has failed to consider any of the elements recited in claim 35. The Examiner has for instance failed to indicate a reference which discloses a database device which stores an address of the receiving device associated with said

at least one of the position indications, and which is configured to send an encryption key relating to the receiving device and the address of the receiving device to the digital pen in response to the receipt of said at least one of the position indications. Should the Examiner maintain her rejection of claim 35, Applicant respectfully requests the Examiner properly consider claim 35 based on its recitations therein in a complete *prima facie* rejection so that Applicant may have a proper opportunity to respond.

### CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet (Reg. No. 52,327) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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